



## HIGH COURT OF AUSTRALIA

### NOTICE OF FILING

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#### Details of Filing

File Number: S116/2020  
File Title: The Commissioner of Taxation of the Commonwealth of Austr  
Registry: Sydney  
Document filed: Form 27B - Appellant's chronology  
Filing party: Appellant  
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#### Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

**IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY**

BETWEEN:

**THE COMMISSIONER OF TAXATION OF THE COMMONWEALTH OF  
AUSTRALIA**  
Appellant

and

**TRAVELEX LIMITED**  
Respondent

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**APPELLANT'S CHRONOLOGY**

**Part I: CERTIFICATION**

1. We certify that this chronology is in a form suitable for publication on the internet.

**Part II: CHRONOLOGY OF PRINCIPAL EVENTS**

<b>Date</b>	<b>Event</b>	<b>Reference</b>
1 October 2002	The Appellant ( <b>Commissioner</b> ) established for the Respondent an account described as an "Integrated Client Account" ( <b>ICA</b> ), which is a Running Balance Account ( <b>RBA</b> ) for the purposes of Part IIB of the <i>Taxation Administration Act 1953</i> ( <b>Administration Act</b> ).	CAB 50 [10]
19 December 2008	In separate proceedings commenced by the Respondent (the Applicant in those proceedings), the Federal Court refused to make a declaration sought by the Respondent that the sale of foreign currency at Sydney Airport to a passenger who had passed through to the departure side of the customs barrier was a GST-free supply by reason of Item 4(a) in s. 38-190(1) of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> ( <b>GST Act</b> ): <i>Travelex Limited v Commissioner of Taxation</i> [2008] FCA 1961.	CAB 50 [12]
29 September 2009	The Full Federal Court dismissed the Respondent's appeal from the decision of the Federal Court handed	CAB 50 [12]

Date of document: 13 August 2020

Filed on behalf of: The Appellant

**Prepared by:**

Balazs Lazanas & Welch LLP  
Level 10, 67 Castlereagh Street  
Sydney NSW 2000

Telephone: 02 9191 0770

Fax: 02 9191 0779

Email: gina@blwllp.com

Ref: Gina Lazanas

	down on 19 December 2008: <i>Travelex Limited v Commissioner of Taxation</i> [2009] FCAFC 133.										
16 December 2009	<p>The Respondent lodged its Business Activity Statement for the November 2009 tax period (<b>November 2009 BAS</b>), consistent with the decision of the Full Federal Court handed down on 29 September 2009. The November 2009 BAS included a GST return for the November 2009 tax period. The net amount payable reported by the Respondent in the November 2009 BAS was \$37,751, payable on 21 December 2009 and calculated as follows:</p> <table border="0"> <tr> <td>1A</td> <td>GST on sales</td> <td>\$698,348</td> </tr> <tr> <td>1B</td> <td>GST on purchases (input tax credits)</td> <td>\$660,597</td> </tr> <tr> <td>9</td> <td>Your payment amount</td> <td>\$37,751</td> </tr> </table>	1A	GST on sales	\$698,348	1B	GST on purchases (input tax credits)	\$660,597	9	Your payment amount	\$37,751	CAB 50 [13] AFM 12 - MS-2 to affidavit
1A	GST on sales	\$698,348									
1B	GST on purchases (input tax credits)	\$660,597									
9	Your payment amount	\$37,751									
17 December 2009	<p>The Commissioner allocated to the Respondent's ICA a debit amount of \$37,751 (the <b>November 2009 BAS net amount</b>). The entry was stated to be "effective" on 21 December 2009.</p> <p>The Respondent paid \$37,751 to the Commissioner.</p>	CAB 51 [16] AFM 16 - MS-3 to affidavit  CAB 12 [17] AFM 5 - Affidavit at [24]									
18 December 2009	The Commissioner allocated the payment of \$37,751 to the Respondent's ICA as a credit amount, with an effective date of 17 December 2009.	CAB 51 [16] AFM 16 - MS-3 to affidavit									
29 September 2010	The High Court allowed the Respondent's appeal from the decision of the Full Federal Court referred to above: <i>Travelex Limited v Commissioner of Taxation</i> [2010] HCA 33.	CAB 51 [17]									
24 June 2011	KPMG, on behalf of the Respondent, wrote to the Commissioner to, <i>inter alia</i> , request an extension in relation to finalising the entitlement to a GST refund of under-claimed input tax credits for the periods 1 November 2002 to 30 November 2010 inclusive.	CAB 51 [19] AFM 19 - MS-6 to affidavit									

8 June 2012	KPMG, on behalf of the Respondent, wrote to the Commissioner to notify the Commissioner of the Respondent's entitlement to a GST refund for under claimed input tax credits following the High Court decision handed down on 29 September 2010 (the <i>Notification of entitlement to GST refund</i> ). In the letter KPMG informed the Commissioner that the Respondent had completed the process required to submit the first tranche of revisions for the periods 1 January 2008 to 31 December 2009 and the total refund calculated for those periods was \$3,328,377. The amount of the refund for the November 2009 tax period was stated to be \$149,020. KPMG also requested that the Commissioner amend the BAS returns for the periods 1 January 2008 to 31 December 2009 in accordance with the refund amounts.	CAB 51 [21] AFM 19 - MS-6 to affidavit									
12 June 2012	The Notification of entitlement to GST refund was received by the Commissioner.	CAB 51 [21]									
28 June 2012	The Commissioner allocated the amount of \$149,020 to the Respondent's ICA as a credit amount. The effective date of the allocation was stated to be 16 December 2009 and the entry in the Respondent's ICA contained the notation "Amended self assessed amount(s) for the period ended 30 Nov 09".	CAB 52 [24] AFM 26 - MS-7 to affidavit									
3 July 2012	<p>The Commissioner sent to the Respondent a document entitled "Confirmation of revised activity statement" for the period 1/11/2009 to 30/11/2009". The document stated that the total amount of the activity statement had been changed from \$37,751Dr to \$111,269Cr and this resulted in a credit adjustment of \$149,020 for the period calculated as follows:</p> <table border="0" data-bbox="502 1668 1181 1832"> <tr> <td>1A</td> <td>GST on sales</td> <td>\$698,348</td> </tr> <tr> <td>1B</td> <td>GST on purchases (input tax credits)</td> <td>\$809,617</td> </tr> <tr> <td>9</td> <td>Net amount for this statement</td> <td>\$111,269CR</td> </tr> </table>	1A	GST on sales	\$698,348	1B	GST on purchases (input tax credits)	\$809,617	9	Net amount for this statement	\$111,269CR	CAB 53 [28] AFM 29 - MS-8 to affidavit
1A	GST on sales	\$698,348									
1B	GST on purchases (input tax credits)	\$809,617									
9	Net amount for this statement	\$111,269CR									
3 July 2012	The Commissioner allocated to the Respondent's ICA a debit amount of \$149,020.	CAB 53 [29] AFM 26 - MS-7 to affidavit									

6 July 2012	The Commissioner paid to the Respondent the amount of \$149,020.	CAB 53 [31]
19 September 2012	The Commissioner paid to the Respondent an amount of \$2,791.82 in delayed refund interest pursuant to s. 12AA of the Overpayments Act. The amount included interest in respect of the \$149,020 amount, for the period 29 June 2012 to 6 July 2012.	CAB 53 [32]
5 December 2016	<p>The Respondent commenced proceedings in the Federal Court.</p> <p>The Respondent filed:</p> <p>a. Originating Application for declaratory relief under s. 39B of the <i>Judiciary Act</i> 1903 with respect to the calculation of interest payment under the Overpayments Act.</p> <p>b. Statement of Claim</p> <p>c. Affidavit of Meagan Stewart sworn on 1 December 2016 and Annexures “MS-1” to “MS-9”</p>	<p>CAB 99 [1] AFM 35</p> <p>CAB 99 [2] AFM 39</p> <p>CAB 101 (index references only) AFM 5, 12, 15, 19, 26 (Affidavit and MS-2, MS-3, MS-6, MS-7)</p>
25 January 2017	The Commissioner filed a Defence in the Federal Court proceedings.	CAB 99 [3] (index reference only) AFM 45
9 February 2017	The Respondent filed a Reply in the Federal Court proceedings.	CAB 99 [4] (index reference only) AFM 51
2 March 2017	The Commissioner and the Respondent filed a Statement of Agreed Facts in the Federal Court proceedings.	CAB 99 [5] (index reference only) AFM 56

12 July 2018	Judgment of the Federal Court (Wigney J) in <i>Travelex Limited v Commissioner of Taxation</i> [2018] FCA 105 was handed down, granting declaratory relief to the Respondent.	CAB 5-35
2 August 2018	The Commissioner filed a Notice of Appeal in the Full Federal Court	CAB 36-42
14 February 2020	Judgment of the Full Court of the Federal Court (Kenny and Steward JJ, Derrington J dissenting) in <i>Commissioner of Taxation v Travelex Ltd</i> [2020] FCAFC 10 was handed down, dismissing the appeal	CAB 43-95
25 June 2020	The High Court granted special leave to appeal (Bell and Nettle JJ)	CAB 105-107
9 July 2020	The Commissioner filed a Notice of Appeal in the High Court	CAB 108-111
16 July 2020	The Respondent filed a Notice of Contention in the High Court	CAB 112-114

Dated: 13 August 2020



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**Neil Williams**  
T: 02 9325 0156  
E: [njwilliams@sixthfloor.com.au](mailto:njwilliams@sixthfloor.com.au)



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**Michael O'Meara**  
T: 02 9221 0069  
E: [omeara@sixthfloor.com.au](mailto:omeara@sixthfloor.com.au)



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**Christopher M Sievers**  
T: 03 9225 6201  
E: [csievers@vicbar.com.au](mailto:csievers@vicbar.com.au)